

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN CHUCK SWYSGOOD**, on March 5, 1999 at 8:00 A.M., in Room 108 Capitol.

ROLL CALL

Members Present:

Sen. Chuck Swysgood, Chairman (R)
Sen. Tom Keating, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Chris Christiaens (D)
Sen. William Crismore (R)
Sen. Eve Franklin (D)
Sen. Greg Jergeson (D)
Sen. Bob Keenan (R)
Sen. J.D. Lynch (D)
Sen. Dale Mahlum (R)
Sen. Ken Mesaros (R)
Sen. Ken Miller (R)
Sen. Arnie Mohl (R)
Sen. Linda Nelson (D)
Sen. Debbie Shea (D)
Sen. Mike Taylor (R)
Sen. Daryl Toews (R)
Sen. Mignon Waterman (D)

Members Excused: None.

Members Absent: None.

Staff Present: Shannon Gleason, Committee Secretary
Pam Joehler, Legislative Fiscal Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 6, HB 8, HB 501, SB 491,
3/2/1999
Executive Action: SB 198, HB 110, HB 501, SB
459, HB 207, SB 447, SB 368

HEARING ON HB 6

Sponsor: REP. MATT MCCANN, HD 92, HARLEM

Proponents: John Tubbs, Department of Natural Resources and Conservation (DNRC)
Mona Jamison, Gallatin County
Lucy Gallos, Mt. Rural Water Systems
Gloria Paladichick, City of Glendive
Richland Economic Development
Randy Huffsmith, LaCasa Grande Water Board

Opponents: None

Opening Statement by Sponsor:

REP. MCCANN advised the committee this bill funds the Renewable Resource Grant Program, and advised the funding source was the interest generated from the Resource Indemnity Trust. REP. MCCANN thought the committee worked hard on the bill and represents the priorities well.

Proponents' Testimony:

John Tubbs, DNRC, rose in support of the bill and handed out EXHIBIT(fcs50a01). Mr. Tubbs advised the allocations totaled \$2,000,000.00 this biennium, in addition SB 49 would increase the allocation by \$2,000,000.00, of which \$1,500,000.00 will be used for the grants and \$500,000.00 to be used for project planning.

Mona Jamison, Gallatin County, stated project 23 involves five counties and produces a viable end product with economic value to the state.

Lucy Gallos, MT. Rural Water Systems, rose in support of HB6 and advised the committee the rural districts relied upon this bill for their projects.

Gloria Paladichick, Richland Economic Development, rose in support of HB6.

Larry Huffsmith, LaCasa Grande, rose in support of the bill and presented an amendment, EXHIBIT(fcs50a02), to include them on the project list. Mr. Huffsmith advised the committee LaCasa Grande had been removed for the list because they failed to qualify for TSEP grants, and project guidelines stated if they failed to qualify for TSEP funding they were automatically dropped from this list.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. KEATING wanted to know how much money there was in the Renewable Resource Account, **Mr. Tubbs** advised \$2,000,000.00 in interest money for grants and an additional \$5,100,000.00 from other revenue sources to fund the agencies, of which \$3,100,000.00 is interest allocation. **SEN. KEATING** wanted to know how much was oil, gas, and coal tax, **Mr. Tubbs** advised \$490,000.00. **SEN. KEATING** asked if this was on anticipated interest income, **Mr. Tubbs** advised the grant funds are guaranteed and the percentage allocation is the estimate. **SEN. KEATING** asked if there was a fund balance, **Mr. Tubbs** advised it was a negative \$159,000.00. **SEN. KEATING** commented that was an over appropriation, **Mr. Tubbs** concurred and noted the grants portion is guaranteed.

SEN. WATERMAN wanted the **LaCasa Grande** situation explained. **Mr. Tubbs** advised the district was outside of East Helena and has an inadequate water and sewer system. The current owners are uncooperative so the subdivision is seeking to furnish their own system. **Mr. Tubbs** advised the amendment would place **LaCasa Grande** under line 40, which was below the current funding line and would have no money unless a project dropped out.

SEN. LYNCH commented the **LaCasa Grande** situation was the strangest situation because the owner refuses to help or improve the water system for the users and there was no recourse for the users.

Closing by Sponsor:

REP. MCCANN felt this was a good program for Montana.
{Tape : 1; Side : A; Approx. Time Counter : 8:15}

HEARING ON HB 8

Sponsor: **REP. MATT MCCANN, HD 93, HARLEM**

Proponents: **John Tubbs,** Department of Natural Resources and Conservation (DNRC)
Anna Miller, DNRC
Mona Jamison, Gallatin
Lucy Gallos, MT. Rural Water Association

Opponents: None

Opening Statement by Sponsor:

REP. MATT MCCANN stated this is the loan component to **HB 6**, and it authorizes the issuance of bonds backed by the Coal Severance Tax Fund and requires 3/4 vote.

Proponents' Testimony:

John Tubbs, DNRC, supports **HB 8**, and advised there were several programs that relied on these grants because of the State's Revolving Fund effect on water and waste water programs. There are both market rate loans and subsidies in the bill.

Anna Miller, DNRC, advised the committee the cities of Bozeman and Missoula were asking to be added to the list of loans, each requesting \$4,000,000.00. They wrongly thought they qualified for a State Special Revolving Fund Loan and passed out **EXHIBIT (fcs50a03)** and **EXHIBIT (fcs50a04)**, and requested testimony during executive action. **CHAIRMAN SWYSGOOD** asked if they were present today, **Ms. Miller** advised they were not, **CHAIRMAN SWYSGOOD** advised unless someone from the committee requested they testify they would not be allowed to testify during executive action.

Mona Jamison, Gallatin County, advised the committee the compost project she mentioned in **HB 6** also had funding in **HB 8**.

Lucy Gallos, MT. Rural Water Systems, rose in support of **HB 8**.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. CHRISTIAENS wanted someone to explain the Missoula request, **Mr. Tubbs** advised Missoula is very interested in pursuing the projects and he had agreed to review the loan but thought they may be able to fund the project through bonds.

SEN. KEATING asked how much **HB 6** totaled, **Mr. Tubbs** advised \$3,489,000.00 was for grant funding and \$2,000,000.00 in new loan requests. **SEN. KEATING** asked if the loan program had a corpus, **Mr. Tubbs** advised it was about \$56,000,000.00, and that it was not a revolving program, but was used to back bonds. **SEN. KEATING** asked if the state received the funds back, **Mr. Tubbs** advised all but \$600,000.00 annually. **SEN. KEATING** requested more detail on the process and **Mr. Tubbs** explained.

SEN. KEATING wanted to know what happened to the interest earnings from the funds, **Mr. Tubbs** advised they were transferred to the General Fund.

SEN. KEATING asked why the interest was being reduced on the **TIN CUP Water District** to zero. **Ms. Miller** advised the Long Range Planning Subcommittee approved the reduction. **SEN. KEATING** asked if this was subsidizing, **Ms. Miller** thought that was correct.

CHAIRMAN SWYSGOOD advised the hearing on this bill had been posted, the court decision was rendered on Saturday regarding **CI-75**, and he felt if the cities thought it was important they had ample time to attend this hearing. **CHAIRMAN SWYSGOOD** thought \$8,000,000.00 had a tremendous impact to the budget and added Long Range Planning had not heard from these people, therefore he was not allowing testimony during executive action.

Closing by Sponsor:

REP. MCCANN closed.

{Tape : 1; Side : A; Approx. Time Counter : 8:27}

HEARING ON HB 501

Sponsor: **REP. KARL OHS, HD 33, HARRISON**

Proponents: **Dan Allen,** Western Environmental Trade Association
Sandy Olsen, MT. Association for Gifted and Talented Education (AGATE)
Pat Graham, Fish, Wildlife and Parks (FW&P)
Mike Batista, Department of Justice
Mike Volenski, MT. Association of Conservation Districts

Opponents: None

Opening Statement by Sponsor:

REP. OHS advised the committee this bill was intended to review programs and agencies in the state. This bill would require a sunset date on programs, and a performance review to be completed on the program prior to the sunset. A recommendation would be made to continue or discontinue the project based on the audit.

SEN. OHS explained how the 77 programs were randomly selected and broken out into five groups. **REP. OHS** felt the repealers were

necessary to enforce compliance. **REP. OHS** advised the Legislative Audit Division thought only one person would be needed for this program.

Proponents' Testimony:

Don Allen, Western Environmental Trade Association, rose in support of the bill and felt this could be a tool used by new Legislatures to replace the memory being lost because of term limits, and insure state programs are effective and operating under the intent they were created. **Mr. Allen** thought the concern of the agencies was unwarranted if the program is worthy it would be continued.

Sandy Olsen, AGATE, read **EXHIBIT(fcs50a05)** and offered an amendment to remove the Gifted and Talented Program from the bill.

Pat Graham, FW&P, passed out an amendment **EXHIBIT(fcs50a06)** and noted FW&P had several projects and a division in the bill, Mr. Graham wanted the Hunter Education and Safety division taken out and each program under that division reviewed and noted some programs had recently been reviewed.

Mike Batista, Department of Justice, felt the performance reviews are important and noted he performs them on his divisions. **Mr. Batista** wanted the Fire Prevention Bureau struck as it serves an important function. *{Tape : 1; Side : B; Approx. Time Counter : 8:43}*

Mike Volensky, MT. Association of Conservation Districts, passed out **EXHIBIT(fcs50a07)** and noted the efforts to make government more responsible was appreciated, however the Range Improvement Resource Program is in there three times. The last amendment strikes out a conservation district, which is local government and not the intent of this bill. **Mr. Volensky** explained the conservation districts functions and operations to the committee.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. WATERMAN stated all the programs under review would be removed from the base budget, reviewed, and then someone would have to appropriate the money to fund the stricken program. **REP. OHS** advised it would be the audit committee that reviewed the performance audits and appropriated the programs. **SEN. WATERMAN** was uncomfortable with cutting a program from the base budget and

then trying to get appropriations later, she felt it was unfair to the employees and would be difficult to get the funding through in a timely fashion. **SEN. WATERMAN** recommended the funding not be pulled up front but after the review. **REP. OHS** advised the repealer is to put teeth and enforcement into the bill. **REP. OHS** thought the audit committee had a good reputation of fairness and this was the best place for this.

Jim Nelson, Legislative Auditor, agreed with **SEN. WATERMAN** it could be a problem if the programs were sunset and the funding source did not get back into the base budget.

SEN. LYNCH thought the performance audits should be eliminated because CPA's are deciding who does their job adequately and CPA's had no idea how other people worked. **SEN. LYNCH** recommended compliance audits.

REP. OHS disagreed and thought a performance audit could determine if someone was doing their job, and added the audit was on the program, not the employees. **REP. OHS** stated there would be hearings to review the recommendations. **SEN. LYNCH** felt auditors were not qualified to judge if the Fire Marshall was doing his job or if his program worked, and added there was no way to have hearings and reviews with only one additional auditor using two extra days. **REP. OHS** commented the additional time and staff was what the Legislative Auditor advised would be needed.

SEN. KEATING pointed out the performance audit was to review the program to determine if it was meeting the intent it was created to. **Mr. Nelson** concurred and noted they would look at economy and efficiency items, management controls, and other things that may not be specified under policy or operation guidelines.

SEN. JERGESON stated section one the unfunded mandate is superseded and wanted to know why. **REP. OHS** advised if there was a program that was not doing the job and was terminated, the duty would have to fall on the local government. **REP. OHS** felt if a program was not doing the job the local government was probably doing the work anyway.

SEN. JERGESON asked if **REP. OHS** would oppose an amendment to include the programs in the governors budget, **REP. OHS** advised he would not be. **SEN. JERGESON** advised the previous sunset law was limited to professional licensing and he disagreed with the amount of time and money this bill would cost. *{Tape : 1; Side : B; Approx. Time Counter : 9:08}*

SEN. MILLER advised the Legislators could do everything this bill does now. Legislators could require an audit at any time and cut programs by taking away the budget if they felt they were not working. **REP. OHS** agreed but stated Legislators do not pay attention and did not know every specific program.

SEN. KEATING asked if anyone reviewed the list for agencies to ensure recent audits were not duplicated, **Mr. Nelson** advised they had not.

SEN. SHEA was concerned about the loss of institutional memory with term limits and future Legislators not knowing the programs, **Mr. Allen** concurred and added the agencies do a good job in defending their agencies and felt this would help new legislators with the budget review.

CHAIRMAN SWYSGOOD wanted to know whose idea this was, **REP. OHS** advised it was a group of Legislators. **CHAIRMAN SWYSGOOD** advised the Legislators receive notice of the audits and they could be accessed. **CHAIRMAN SWYSGOOD** thought the budget committee paid attention to the audits when deciding who to fund, however he felt it would not be feasible for the Audit Committee to review these and report to the Legislature with a single staff addition. **CHAIRMAN SWYSGOOD** felt there was a shift in responsibility from the Legislature to the Audit Committee. **CHAIRMAN SWYSGOOD** added if the Legislature is not reviewing the audits it is not the agencies problem.

SEN. LYNCH felt the fiscal note was flawed and should be looked at carefully.

Closing by Sponsor:

REP. OHS felt this bill would make the agencies more accountable and force them to review themselves. **REP. OHS** felt if the Auditor thought it could do this with one person they probably could. **REP. OHS** referred to the list of programs and stated he was amazed at some of the agencies and had no idea what they did or if they operated properly, this was oversight that was needed. **REP. OHS** passed out amendments he would like on the bill **EXHIBIT(fcs50a08)**, **EXHIBIT(fcs50a09)**, and **EXHIBIT(fcs50a10)**. {Tape : 1; Side : B; Approx. Time Counter : 9:22}

HEARING ON SB 491

Sponsor: **SEN. DUANE GRIMES, SD 20, CLANCY**

Proponents: **Bob Olsen, MHA**

Andrea Merrill, MT. Mental Health
Gloria Hermanson, MT. Psychologists Association
Peter Funk, MT. Auditor's Office
Mona Jamison, Shodair Children's Hospital
Alan Strange, MT. Primary Care Association
Sami Butler, MT. Nurses Association
Jerry Loendorf, MT. Medical Association

Opponents: None

Opening Statement by Sponsor:

SEN. GRIMES felt this bill would set up regulatory guidelines for any managed care contract providers. **SEN. GRIMES** advised if this would have been in effect **Magellan** would not have qualified to provide services. **SEN. GRIMES** advised there was some concern as to whether this bill would limit the number of providers eligible to apply for contracts, but left that up to the committee to decide and thought maybe they should be limited.

Proponents' Testimony:

{Tape : 2; Side : A; Approx. Time Counter : 0}

Bob Olsen, MHA, advised they requested **SB 491** be drafted and felt it was important managed care entities met guidelines and were reviewed by the Insurance Commissioner. **Mr. Olsen** handed out **EXHIBIT(fcs50a11)**. **Mr. Olsen** referred to Magellan and the mistakes made with them and thought this was needed oversight.

Andrea Merrill, Mental Health Association, rose in support of SB 491 and read **EXHIBIT(fcs50a12)**.

Gloria Hermanson, MT. Psychological Association, rose in support of **SB 491** and felt if this legislation had been in place prior to Magellan it would have prevented many of the current problems.

Peter Funk, Legal Council, State Auditor's Department, stated although this bill was not drafted by the request of the Auditor's office they fully supported the concept. **Mr. Funk** advised the department is ready to take on the responsibility of overseeing managed care programs.

Mona Jamison, Shodair Children's Hospital, rose in support of the bill and advised the committee the insurance department should be overseeing contracts.

Jerry Loendorf, Mt. Medical Association, rose in support of the bill and advised they would support any measure the committee

thought fit to oversee managed care programs. **Mr. Loendorf** advised he felt if a contract was going to be open for companies to bid on there should be minimum qualification guidelines.

Alan Strange, MT. Primary Care Association, believed guidelines should have been in place before the original contract was awarded and supported the bill.

Sami Butler, MT. Nurses Association, felt accountability and oversight in mental health was long overdue. {Tape : 2; Side : A; Approx. Time Counter : 9:42}

Questions from Committee Members and Responses:

SEN. WATERMAN wanted to know how long it would take for the Insurance Commissioner to be ready to oversee contracts, **Peter Funk** advised the bill stated contracts after 10/1/99 would be reviewed and noted they did not have plans to treat these contracts any different than any other company so felt they would meet the 10/1/99 date.

SEN. WATERMAN asked if the providers would be reviewed prior to the bidding or prior to the awarding of the contracts, **Mr. Funk** advised both. **Mr. Funk** did not feel his office would be involved in awarding the contracts, but review the agencies to make sure they can meet the HMO codes.

SEN. WATERMAN wanted to know if there was a Montana Non Profit agency could qualify under these provisions, **Bob Olsen** advised he would not put his hospital in a position until an actuary study was completed.

SEN. KEATING asked if this bill would require an HMO to be licensed through the Insurance Commissioner's office, and what the fee for the licenses would be. **Mr. Funk** advised there would be a fee and a licenses would be required. **SEN. KEATING** asked if that fee supported the Insurance Commissioner's Office. **John Huth**, Administrator of Central Services, advised the licensing would go to the General Fund and the Insurance Department is budgeted through General Fund. **SEN. KEATING** asked if the fees would offset the fiscal note, **Mr. Huth** advised it would not as the fees are only about \$800.00 per company.

SEN. CHRISTIAENS wanted to know what the required reserves would be, **Claudia Clifford** advised the requirements are currently at \$450,000.00 but were being increased to \$750,000.00 this year.

SEN. CHRISTIAENS thought with those kinds of reserves he felt entities in this state would not qualify, and the reserves for a

managed care program should be higher than that. **Ms. Clifford** advised the current requirements are low compared to national average and most states require \$1,000,000.00. **Ms. Clifford** advised the committee needed to consider it would take state owned and operated companies several months to get the reserves and be in a position to handle a managed care program.

SEN. CHRISTIAENS asked what other states had the Insurance Commissioner medicaid programs, **Mr. Olsen** advised Montana currently does but he was unsure what other states do in the mental health area.

SEN. KEATING wanted to know if all the **HMOs** had the reserves required to operate, **Ms. Clifford** advised they did, if not they would not be licensed, and part of the requirement was a deposit with the state of \$250,000.00 as well as other liquid assets.

SEN. KEATING stated there was a medical HMO dealing with medicaid and wanted to know if there was a larger degree of risk in dealing with a mental health HMO, **Mr. Olsen** advised he was not in a position to determine that, but thought the physical side had actuary studies and it was easier to determine the risk. **SEN. KEATING** wanted to know if actuary studies were expensive, it was determined they were \$300.00 to \$600.00 per hour.

SEN. WATERMAN asked if the request for proposal required the new managed care provider to meet these requirements prior to being awarded a contract, **Randy Poulsen**, Managed Care Bureau, advised it would depend on the timing and when a contract was awarded. **Mr. Poulsen** thought the managed care contract would be awarded by 7/1/99 and if this bill does not pass he has not decided what will be required, he noted they were meeting with the Insurance Commissioner to decide.

Closing by Sponsor:

SEN. GRIMES advised this was a important policy issue to place regulators in the loop of approval. **SEN. GRIMES** wanted the insurance code checked to make sure this was acceptable and Montana companies would qualify. {Tape : 2; Side : A; Approx. Time Counter : 9:57} The committee took a 20 minute break.

EXECUTIVE ACTION ON SB 198

Motion/Vote: **SEN. CHRISTIAENS** moved that **SB 198 DO PASS**. Motion carried 17-1 with Shea voting no.

EXECUTIVE ACTION ON SB 459

Motion/Vote: SEN. CHRISTIAENS moved that SB 459 BE TABLED.
Motion carried 17-1 with Shea voting no.

EXECUTIVE ACTION ON HB 64

Motion: SEN. TAYLOR moved AMENDMENTS **EXHIBIT**(fcs50a13).

Discussion:

SEN. TAYLOR explained the amendments.

Vote: Motion carried 17-1 with Miller voting no.

Motion: SEN. TAYLOR moved that HB 64 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. LYNCH advised this bill will not do what it is intended to do, he thought what would happen is agencies would pick there highest priority items to cut.

SEN. WATERMAN asked if this included the Department of Corrections, the committee advised it would.

CHAIRMAN SWYSGOOD stated he hoped the agencies would live up to the intent of the bill, and look at area that could be reduced if the agency budgets had to be reduced.

Vote: Motion failed 9-9.

Motion: SEN. LYNCH moved that HB 64 BE TABLED.

A roll call vote was started and the motion was withdrawn after three votes.

EXECUTIVE ACTION ON HB 110

Motion/Vote: SEN. KEATING moved that HB 110 BE CONCURRED IN.
Motion carried 17-1 with Lynch voting no.

SEN. KEATING was appointed to carry the bill.

EXECUTIVE ACTION ON HB 207

{Tape : 2; Side : B; Approx. Time Counter : 10:38}

Motion: SEN. MAHLUM moved that HB 207 BE AMENDED
EXHIBIT(fcs50a14) .

Discussion:

CHAIRMAN SWYSGOOD advised this was a technical amendment to change line 13 the 3 to 4.

Vote: Motion carried unanimously.

Motion/Vote: SEN. JERGESON moved that HB 207 BE AMENDED. Motion carried unanimously.

Motion/Vote: SEN. MAHLUM moved that HB 207 BE CONCURRED IN AS AMENDED. Motion failed 8-10 with Christiaens, Jergeson, Nelson, Miller, Shea, Waterman, Franklin and Keating voting aye.

Motion/Vote: SEN. LYNCH moved that HB 207 BE TABLED. Motion carried 10-8 with Christiaens, Jergeson, Nelson, Miller, Shea, Waterman, Franklin and Keating voting no.

EXECUTIVE ACTION ON SB 447

Motion: SEN. FRANKLIN moved that SB 447 DO PASS.

Discussion:

SEN. FRANKLIN explained the bill.

SEN. BECK stated the impact was \$1,100,000.00 and asked if SEN. TAYLOR realized that, SEN. TAYLOR advised when the committee met on this there was no fiscal note available and they did not realize the impact.

SEN. JERGESON noted this bill was drafted to get around CI-75 and since that is no longer an issue this was not the best way to accomplish a fee structure revision.

SEN. TAYLOR advised the concept was good, however the impact of this bill was too great to support.

Substitute Motion/Vote: **SEN. BECK** made a substitute motion that **SB 447 BE TABLED**. Substitute motion carried 15-3 with **Franklin, Lynch, and Keenan** voting no.

EXECUTIVE ACTION ON SB 368

Motion: **SEN. TAYLOR** moved that **SB 368 DO PASS**.

Discussion:

CHAIRMAN SWYSGOOD explained the bill.

Substitute Motion/Vote: **SEN. BECK** made a substitute motion that **SB 368 BE TABLED**. Substitute motion carried 15-3 with **Beck, Mahlum, and Taylor** voting no.

EXECUTIVE ACTION ON HB 501

Motion/Vote: **SEN. LYNCH** moved that **HB 501 BE TABLED**. Motion carried 14-4 with **Crismore, Taylor, Mahlum, and Keenan** voting no.

The committee decided to postpone executive action on **SB 491** until members could research their questions.

ADJOURNMENT

Adjournment: 11:05 A.M.

SEN. CHUCK SWYSGOOD, Chairman

SHANNON GLEASON, Secretary

CS/SG

EXHIBIT (fcs50aad)